

February 12, 2016

**Via Certified U.S. Mail and Email**

Freedom of Information Officer  
U.S. EPA, Region 10  
Office of External Affairs  
1200 6th Ave., Suite 900 (CEC-142)  
Seattle, WA 98101  
rl0foia@epa.gov

National Freedom of Information Officer  
Records, FOIA, and Privacy Branch  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW (2822T)  
Washington, DC 20460  
hq.foia@epa.gov

Re: Freedom of Information Act Request

Dear Sir or Madam:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), and implementing regulations of the U.S. Environmental Protection Agency ("EPA"), 40 C.F.R. Part 2, I hereby request, on behalf of the Pebble Limited Partnership, a copy of the following:

1. All documents related or referring to EPA's efforts to recover, restore, or repair information from any hard drives, thumb drives, or other storage devices assigned to former Region 10 ecologist, Phillip North.
2. All documents related or referring to EPA's efforts to recover, restore, or repair information from any EPA archives containing documents from former Region 10 ecologist, Phillip North.
3. All documents related or referring to EPA's efforts to recover, restore, or repair information from any private, secondary, or personal email account used by former Region 10 ecologist, Phillip North.
4. All documents related or referring to EPA's efforts to recover information from any private, secondary, or personal email account concerning:
  - a. EPA's efforts to prepare the document titled *An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay*,

- Alaska*, or relate to EPA's decision to conduct this assessment of mining impacts on the Bristol Bay, Alaska, region; or
- b. EPA's evaluation of the mining project in Southwest Alaska commonly called the Pebble project or the Pebble Mine ("Pebble Mine"), or any other matter connected to the Pebble Mine; or
  - c. EPA's efforts to prepare the document titled *Proposed Determination of the U.S. Environmental Protection Agency Region 10 Pursuant to Section 404(c) of the Clean Water Act, Pebble Deposit Area, Southwest Alaska*; or
  - d. EPA's consideration of Section 404(c) of the Clean Water Act with respect to Bristol Bay, Alaska; or
  - e. The May 21, 2010, letter titled *A Joint Letter From Six Federally-recognized Tribes in the Kvichak and Nushagak River Drainages of Southwest Alaska: Nondalton Tribal Council, Koliganik Village Council, New Stuyahok Traditional Council, Ekwok Village Council, Curyung Tribal Council, Levelock Village Council*.
5. All documents related or referring to EPA's efforts to recover, restore, or repair information or communications transmitted through from text message or other telephonic messaging services concerning:
- a. EPA's efforts to prepare the document titled *An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska*, or relate to EPA's decision to conduct this assessment of mining impacts on the Bristol Bay, Alaska, region; or
  - b. EPA's evaluation of the mining project in Southwest Alaska commonly called the Pebble project or the Pebble Mine ("Pebble Mine"), or any other matter connected to the Pebble Mine; or
  - c. EPA's efforts to prepare the document titled *Proposed Determination of the U.S. Environmental Protection Agency Region 10 Pursuant to Section 404(c) of the Clean Water Act, Pebble Deposit Area, Southwest Alaska*; or
  - d. EPA's consideration of Section 404(c) of the Clean Water Act with respect to Bristol Bay, Alaska; or
  - e. The May 21, 2010 letter, titled *A Joint Letter From Six Federally-recognized Tribes in the Kvichak and Nushagak River Drainages of Southwest Alaska: Nondalton Tribal Council, Koliganik Village*



*Council, New Stuyahok Traditional Council, Ekwok Village Council, Curyung Tribal Council, Levelock Village Council.*

6. All correspondence with the National Archives and Records Administration (“NARA”) related or referring to the potential loss or removal of federal records concerning:
  - a. Former Region 10 ecologist, Phillip North; or
  - b. EPA’s efforts to prepare the document titled *An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska*, or relate to EPA’s decision to conduct this assessment of mining impacts on the Bristol Bay, Alaska, region; or
  - c. EPA’s evaluation of the mining project in Southwest Alaska commonly called the Pebble project or the Pebble Mine (“Pebble Mine”), or any other matter connected to the Pebble Mine; or
  - d. EPA’s efforts to prepare the document titled *Proposed Determination of the U.S. Environmental Protection Agency Region 10 Pursuant to Section 404(c) of the Clean Water Act, Pebble Deposit Area, Southwest Alaska*; or
  - e. EPA’s consideration of Section 404(c) of the Clean Water Act with respect to Bristol Bay, Alaska; or
  - f. The May 21, 2010 letter, titled *A Joint Letter From Six Federally-recognized Tribes in the Kvichak and Nushagak River Drainages of Southwest Alaska: Nondalton Tribal Council, Koliganik Village Council, New Stuyahok Traditional Council, Ekwok Village Council, Curyung Tribal Council, Levelock Village Council.*

For the purposes of these requests, “documents” or “communications” refers to any electronic, written, graphic, video, or audio matter, however produced or reproduced, whether draft or final versions, and including but not limited to correspondence, emails, email attachments, notes, interoffice communications, reports, memoranda, minutes, summaries, telephone records, telephone message logs or slips, transcripts, call lists, PowerPoint presentations, spreadsheets, agendas, maps, photographs, data compilations, *Vaughn* indices, privilege logs, or calendars.

In responding to these requests, EPA’s search should encompass, but should not be limited to, documents sent to or from email addresses used by current or former EPA employees and representatives, regardless of whether such addresses are private or secondary addresses (e.g., the email address for “Richard Windsor,” the personal/secondary email addresses of Phil North, etc.), personal email addresses or official EPA addresses.

If any documents covered by this FOIA request have been deleted, destroyed, removed, or cannot be located, please provide all surrounding documents as well as a list of all records that have been deleted, destroyed, removed, or cannot be located, a description of actions taken in response to the unavailable documents, and any documents relevant to or generated in connection with implementing those actions.

#### FOIA Exemptions

Should you decide to invoke a FOIA exemption with regard to any of the requested records, please include in your full or partial denial letter sufficient information to appeal the denial. *See* 5 U.S.C. § 552(a)(6)(A)(i), (a)(6)(F). To comply with legal requirements, the following information must be included:

1. Basic factual material about each withheld item, including the originator, addressees and recipients, date, length, general subject matter, and location of each item; and
2. Explanations and justifications for the denial, including identification of the category within the governing statutory provision under which the document (or portion thereof) was withheld and a full explanation of how each exemption fits the withheld material.

If you determine that portions of a record requested are exempt from disclosure, please redact the exempt portions, identify and describe the withheld portions, specify the applicable exemption, and provide the remainder of the record. *See* 5 U.S.C. § 552(a)(6)(A)(i), (a)(6)(F), (b).

I encourage you to release any records, or portions thereof, that may technically be shielded by exemptions if there is no purpose served by withholding the requested records. *Chrysler Corp. v. Brown*, 441 U.S. 281, 294-95 (1979) (holding that FOIA exemptions are discretionary). I note that FOIA provides that an arbitrary and capricious refusal to produce responsive documents will result in investigation initiated by special counsel to determine whether disciplinary action is warranted against the individual at the agency primarily responsible for the withholding. 5 U.S.C. § 552(a)(4)(F).

#### Timing and Mechanics of Production

I request that in responding to this letter, EPA comply with all relevant deadlines and other obligations set forth in FOIA and EPA's regulations, and I look forward to receiving your response within 20 working days. 5 U.S.C. § 552(a)(6)(A)(i); 40 C.F.R. § 2.104. Please produce records on a rolling basis; the search for – and deliberation concerning – certain documents should not delay the production of others that EPA has already retrieved and could turn over. Please note that I am interested in working with EPA to ensure that the burden associated with this FOIA request is minimized to the extent practicable, including discussing phased or prioritized document productions.



I prefer to receive electronic documents, and not paper copies, whenever possible. To the extent possible, I request that EPA provide the requested information in searchable, electronic format on CD, DVD, or external hard drives of sufficient size to contain the production. Electronic files should be provided in their original format, not in PDF containers. Individual emails, and their attachments, should be maintained as single msg files. If this is not possible, then emails and their attachments should be provided in either PST or NSF containers, thereby preserving all attachment information.

I understand that there may be fees and costs associated with this request, and I agree to pay any fees or costs up to \$1,000 associated with making these materials available to us. If the costs will be in excess of \$1,000, please advise me before such costs are incurred.

In responding to the present letter, please mail copies of all requested documents, indices and logs, and any invoice for reasonable FOIA fees to the undersigned.

Thank you for your assistance.

Sincerely,



Robert K. Moir